

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 2: ANIMALS

Chapter 14: Potentially Dangerous and Vicious Animals.

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32.1401 Purpose.

The purpose of this chapter is to provide regulations and procedures related to the declaration, conditions for release and control, and the disposition and destruction of potentially dangerous and vicious animals.

Adopted Ordinance #3804 (2000);

32.1402 Exceptions to Chapter.

(a) This chapter does not apply to licensed kennels, humane society shelters, animal control facilities or veterinary clinics.

(b) This chapter shall not apply to any dog utilized by any police department or any law enforcement officer in the performance of police or law enforcement work.

Adopted Ordinance #3804 (2000);

32.1403 Determinations and Notice Process.

(a) Determination of Potentially Dangerous or Vicious animal: If an Animal Control Officer, after conducting an investigation, has determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, he or she shall report the results of his or her investigation in writing to the Chief Officer, who shall review said written report for the purpose of determining whether or not the animal in question is potentially dangerous or vicious.

(b) Complaints and Evidence: If the written report submitted by the Animal Control Officer is based on a complaint or complaints received from a member of the public, the Animal Control Officer shall require the complainant to put the complaint in writing and sign it under penalty of perjury, so that it may be offered as evidence at the Review Hearing described below. The Animal control Officer may also include in said report to the Chief Officer:

- (1) If known, the animal's previous history of biting, attacking, or causing injury to a human being or animal;
- (2) the nature and extent of injuries inflicted and the behavior of victims involved;
- (3) the place where the bite, attack or injury occurred;
- (4) the presence or absence of any provocation for the bite, attack or injury;
- (5) the extent to which property has been damaged or destroyed;
- (6) the extent to which the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or domestic animals; and
- (7) the extent to which the animal exhibits any characteristics of being trained for fighting or attack and any evidence tending to show such training.

(c) Hearing Before and Determination Of Chief Officer:

(1) If the Chief Officer, after examining the written report of the Animal Control Officer, determines that probable cause exists that the animal is potentially dangerous or vicious, he or she shall mail a written notice to the owner or keeper of the animal of a hearing to be presided over by the Chief Officer for the purpose of determining whether or not the animal should be declared potentially dangerous or vicious, which notice shall be mailed by first class mail, postage prepaid, not less than fourteen (14) days before the date set for the hearing, at which time the owner or keeper of the animal shall be given an opportunity to present evidence as to why the animal should not be declared potentially dangerous or vicious.

(2) At the hearing, the Chief Officer shall review all relevant evidence, including the written report of the Animal Control Officer and any evidence submitted by the owner or keeper. Following the hearing, the Chief Officer shall prepare a written Notice of Determination as to whether or not the animal is potentially dangerous or vicious, and make whatever other orders are authorized by this chapter, and shall mail said Notice of Determination to the owner or keeper by first class mail, postage prepaid. The Chief Officer shall decide all issues for or against the owner

or keeper of the animal if the owner or keeper fails to appear at a scheduled determination hearing, and such determination shall be final and conclusive and not subject to further review.

(d) Notice of Determination and Review Hearing:

(1) If a determination is made by the Chief Officer that the animal is potentially dangerous or vicious, the owner or keeper shall comply with section 32.1405 in accordance with a time schedule established by the Chief Officer, but in no case more than thirty (30) days after the date of mailing of the Notice of Determination.

(2) If the owner or keeper of the animal appeared at the hearing and contests the determination, he or she may request a review hearing of the decision of the Chief Officer. A written request for review must be actually received in the office of the Chief officer within ten (10) days of the mailing of the Notice of Determination, or the right to review shall be deemed waived and the Notice of Determination of the Chief Officer shall be final for all purposes.

(3) Upon receipt of a request for review, the Chief Officer shall convene an Administrative Review Panel to review the case. The Chief Officer shall mail a written notice to the owner or keeper of the animal of a hearing before and Administrative Review Panel for the purpose of reviewing the Chief Officer's Notice of Determination that the animal should be declared potentially dangerous or vicious, which notice shall be mailed by first class mail, postage prepaid, not less than 14 days before the date set for the hearing, at which time the owner or keeper of the animal shall be given an opportunity to present evidence as to why the Chief Officer's Notice of Determination that the animal should be declared potentially dangerous or vicious is erroneous.

At the review hearing, the Panel shall review the Chief Officer's Notice of Determination, and, if it deems it appropriate, all relevant evidence considered by Chief Officer at the prior hearing. The Panel shall submit a written recommendation to the Health Officer regarding the appropriateness of the Notice of Determination of the Chief Officer and/or disposition of the subject animal, and shall mail a copy of said written recommendation to the owner or keeper by first class mail, postage prepaid. The Administrative Review Panel may issue recommendations for or against the owner or keeper of the animal if the owner or keeper fails to appear at a scheduled review hearing, and such recommendations shall be final and conclusive and not subject to further review.

(4) The Administrative Review Panel shall consist of three members which shall be appointed by the Chief Officer: a representative of the Animal Care and Control Program, but not the investigating officer or an officer with knowledge of the case; a representative of a private veterinary or animal care provider; and a representative of another public animal control agency.

(5) If the owner or keeper of the animal appeared at all hearings, the Health Officer shall review the Chief Officer's Notice of Determination and the Administrative Review Panel's recommendations thereon and make a finding as to whether or not the animal is potentially dangerous or vicious, and make such other orders authorized by this Chapter, and shall mail a copy of said findings and orders to the owner or keeper by first class mail, postage prepaid.

The findings and orders of the Health Officer shall be final and conclusive upon all parties. If the Health Officer determines that an animal is potentially dangerous or vicious, the Health Officer may establish a time schedule to ensure compliance with this Chapter, but in no case more than thirty (30) days subsequent to the date of the mailing of the Health Officer's findings and orders.

(e) Exceptions:

(1) An animal may be found not potentially dangerous or vicious if the Chief Officer, Administrative Review Panel or Health Officer reasonably determines any of the following:

(A) any injury or damage was sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass upon the premises occupied by the owner or keeper of the animal or was committing or attempting to commit a crime upon the premises;

(B) the person who sustained the injury or damage was teasing, tormenting, abusing or assaulting the animal at the time;

(C) the animal was protecting or defending a person within the immediate vicinity of the animal from an attack, assault, battery, crime or attempt to commit an attack, assault, battery or crime by the person who sustained the injury; or

(D) any injury or damage was sustained by a domestic animal, which, at the time the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal.

(2) No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting, herding, or a predator control dog and it was on the property of, or under the control of, its owner or keeper and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

Adopted Ordinance #3804 (2000);

32.1404 Authority to Seize Animal Posing Immediate Threat to Public Safety.

If an Animal Control Officer has investigated and determined there exists probable cause to believe an animal poses an immediate and serious threat to the safety of the public, then the Animal Control Officer may seize and impound the animal pending the hearing to be held pursuant to subsection 32.1403(c). If confinement is not contrary

to public safety, the Chief Officer may require the animal to be confined at the owner's or keeper's expense in a kennel or veterinary facility approved by the Animal Care and Control Program.

Adopted Ordinance #3804 (2000);

32.1405 Handling of Potentially Dangerous or Vicious Animals.

(a) Animal to Be Kept Under Control at All Times:

(1) Control While On Owner's or Keeper's Premises: A potentially dangerous or vicious animal, while on the owner's or keeper's property, shall at all times be kept indoors or in an enclosure which shall secure the yard so that the animal cannot escape and children cannot trespass. The enclosure shall be approved by the Animal Care and Control Program and meet the following criteria:

(A) the enclosure shall be constructed to prevent the going in of the public or other animals and the entrance to the enclosure shall be locked at all times while the animal is contained within the enclosure;

(B) the enclosure shall be six (6) sided, consisting of four (4) walls, a cover or roof and a permanent floor to prevent the animal from escaping by either climbing or digging under the wall. If the bottom is not secured to the sides, the sides must be embedded in the ground no less than two (2) feet;

(C) the animal shall be housed pursuant to the provisions of section 597t of the California Penal Code (adequate enclosed area). The minimum dimensions of the enclosure shall measure five (5) feet by ten (10) feet and be of a height which does not restrict the animal's natural movements and which allows the owner or keeper into the enclosure to maintain the animal.

(D) the enclosure shall be surrounded by a perimeter fence which prevents the entry of the public onto the property of the owner or keeper but which shall not serve in any part as a primary enclosure for the animal.

(2) Compliance Inspections: As a condition of maintaining a potentially dangerous or vicious animal, its owner or keeper shall allow access to the Animal Care and Control Program to inspect the premises to ensure compliance with the provisions of this chapter between the hours of 9:00 a.m. and 9:00 p.m. daily. Prior notification of the inspection to the owner or keeper of the potentially dangerous or vicious animal shall not be required.

(3) Control When Off Owner's or Keeper's Premises: At all times, when a potentially dangerous or vicious animal is not on the premises of the owner or keeper, the animal shall be securely muzzled and restrained by a leash. The animal shall also be under the control of a person eighteen (18) years of age or older, who is physically capable of restraining the animal.

(b) Warning Notice: The owner or keeper of the animal shall display, in a prominent place upon the premises where the animal is kept or maintained, a sign easily readable by the public using the words "DANGEROUS ANIMAL", or "VIOIOUS ANIMAL", as ordered by the Chief Officer or Health Officer after a hearing or hearings pursuant to section 32.1403, in letters at least two (2) inches in height.

(c) Permanent Identification of Animal: The owner or keeper of the animal shall provide a permanent identification by means of either a registered tattoo or implanted microchip that shall be registered with the Animal Care and Control Program. A photograph of the animal shall be kept on record for identification, in addition to registration as a Dangerous Animal or Vicious Animal.

(d) Notice of Change of Location or Death of Animal:

(1) If an animal determined to be potentially dangerous or vicious dies, is sold, transferred or permanently removed from the County, the owner or keeper shall notify the Chief Officer of the changed condition(s) and new location of the animal in writing within two (2) working days of the changed status.

(2) Animals determined to be potentially dangerous or vicious may be relocated to other premises within the County only upon written notification to the Animal Care and Control Program a minimum of five (5) working days in advance of the animal being physically transferred to new premises. Such physical transfer requires the inspection and approval by an Animal Control Officer of the new premises' enclosure and perimeter fencing for compliance with section 32.1405.

(e) Licensing and Vaccination: All potentially dangerous and vicious dogs shall be licensed and vaccinated in accordance with Chapter 2 of Title III of the County Code. The potentially dangerous or vicious dog designation shall be included in the license records of the dog. A potentially dangerous or vicious dog fee shall be charged in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog pursuant to San Bernardino County Code Schedule of Fees.

(f) Designated Potentially Dangerous and Vicious Animal Listing: All animals designated potentially dangerous or vicious shall be recorded on a listing maintained by the Animal Care and Control Program. Animals designated potentially dangerous or vicious shall remain on the listing until the animal dies, is permanently removed from the County, or is removed from designation pursuant to section 32.1406.

Adopted Ordinance #3804 (2000);

32.1406 Removal of Designation as Potentially Dangerous or Vicious.

If the owner or keeper demonstrates changes that mitigate the risk to public safety to the satisfaction of the Chief Officer, the designation of potentially dangerous or vicious shall be removed.

Adopted Ordinance #3804 (2000);

32.1407 Conditions for Destroying Animal Found Vicious or Potentially Dangerous or Vicious.

(a) An animal determined to be a vicious or potentially dangerous animal may be destroyed by the Animal Care and Control Program when it is found, after proceedings conducted under section 32.1403, that the release of the animal would create a significant threat to the public health, safety and welfare. If it is determined that a vicious or potentially dangerous animal may be released, the Chief Officer shall impose conditions upon the ownership of the animal, including, but not limited to, the conditions set forth in section 32.1405 in order to protect the public health, safety, and welfare.

(b) An animal previously determined to be a vicious or potentially dangerous animal may be destroyed by the Animal Care and Control Program when it is found, after proceedings conducted under section 32.1403, that the owner or keeper of the animal has failed to comply with the provisions of section 32.1405(a).

Adopted Ordinance #3804 (2000);

32.1408 Conditions for Prohibiting Ownership of Vicious Animals.

The owner of an animal determined to be vicious or potentially dangerous may be prohibited by the Health Officer from owning, possessing, controlling or having custody of any other animals of dangerous propensities for a period of up to three (3) years, when it is found, after proceedings conducted under section 32.1403, that ownership or possession of such an animal by that person would create a significant threat to the public health, safety, and welfare, as determined by the Chief Officer.

Adopted Ordinance #3804 (2000);

32.1409 Criminal Penalties/Injunction.

The penalties and remedies for violation of this Chapter shall be the same as provided for in Sections 32.0120, Penalties and 32.0121, Injunction.

Adopted Ordinance #3804 (2000);